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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/891,592	06/25/2001	Alex D. Starkovich	42390P10394	2119

8791 7590 05/15/2007  
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EXAMINER

RAMPURIA, SHARAD K

ART UNIT	PAPER NUMBER
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2617

MAIL DATE	DELIVERY MODE
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05/15/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 09/891,592	<b>Applicant(s)</b> STARKOVICH ET AL.	
	<b>Examiner</b> Sharad Rampuria	<b>Art Unit</b> 2617	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 02 February 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-28 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-28 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                  | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

Art Unit: 2617

### **DETAILED ACTION**

I. The Art Unit location of this application in the USPTO has changed. To aid in correlating any papers for this application, all further correspondence regarding this application should be directed to Art Unit 2617.

### ***Continued Examination Under 37 CFR 1.114***

II. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 02/02/2007 has been entered.

### ***Disposition of the claims***

III. The current office-action is in RCE filed on 02/02/2007.

Accordingly, Claims 1-28 are pending for further examination as follows:

### ***Claim Rejections - 35 USC § 102***

IV. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-5, 9, 11-14, 17-21, 24-28 are rejected under 35 U.S.C. 102(e) as being anticipated by Patil [US 6625460].

As per claim 1, Patil teaches:

A method of transmitting a message from a portable communication device (10; Fig.1, Abstract) comprising:

Preparing the message to be transmitted, wherein preparing includes receiving the message from a user of the portable communication device via an input/output (I/O) module of the portable communication device; (e.g. user can compose the message by utilizing user-interface; Col.4; 4-21)

Associating the message with a user defined event, wherein the user defined event is defined by the user of the portable communication device and includes to specify at least one condition upon which transmission of the message will occur; (e.g. the message sent upon triggering the condition; Col.5; 16-24) and

Transmitting the message from the portable communication device at the time of the user defined event occurs. (e.g. the triggering condition include certain time/day; Col.5; 16-24)

Regarding Claim 2, Patil disclosed the method of claim 1, wherein transmitting the message includes transmitting the message from the portable communication device to a base station. (e.g. base station; Col.4; 4-7)

Regarding Claim 3, Patil disclosed the method of claim 1, further comprising specifying the user defined event. (e.g. the user-define triggering condition; Col.4; 63-Col.5; 24)

Regarding Claim 4, Patil disclosed The method of claim 3, wherein specifying the user defined event includes specifying the date and time for transmission of the message. (e.g. the triggering condition include certain time/day; Col.5; 16-24)

Regarding Claims 5, 17, Patil disclosed the method of claims 3, 13 respectively, wherein specifying the user defined event includes specifying an acceptable cost level at which the message is to be sent. (e.g. the cost; Col.5; 16-24)

Regarding Claim 9, Patil disclosed The method of claim 1, further comprising compressing the message only when the portable communication device is coupled to a stable power supply. (10; Fig.1, col.3; 11-26)

Regarding Claim 11, Patil disclosed The method of claim 1, further comprising storing the message in memory in the portable communication device. (e.g. memory; col.3; 55-63, col.4; 27-55)

Regarding Claim 12, Patil disclosed The method of claim 11, wherein storing the message in memory includes storing the message in non-volatile memory. (e.g. memory; col.3; 55-63, col.4; 27-55)

As per claim 13, Patil teaches:

A method of transmitting a message to a portable communication device (10; Fig.1, Abstract) comprising:

Receiving a message from a user of the portable communication device via an input/output (I/O) module of the portable communication device; (e.g. user can compose the message by utilizing user-interface; Col.4; 4-21)

Storing the message in memory; (e.g. memory; col.3; 55-63, col.4; 27-55)

Defining a transmission condition for when the message is to be transmitted the transmission condition being defined by the user; associating the message with the transmission condition; and transmitting the message from the portable communication device upon occurrence of the transmission condition. (e.g. the message sent upon triggering the condition; Col.5; 16-24)

Regarding Claims 14, 21, Patil disclosed The method of claims 13, 20, wherein defining a transmission condition includes defining a time when the message is to be transmitted. (e.g. the triggering condition include certain time/day; Col.5; 16-24).

Regarding Claim 18, Patil disclosed The method of claim 13, further comprising receiving the message with an antennae on the portable communication device. (10; fig.1, Col.3 11-18)

Regarding Claim 20, Patil disclosed The portable communication device of claim 19, where in the processor is further adapted to monitor the operation of the portable communication device and determine if the user defined event has occurred. (e.g. the triggering condition include certain time/day; Col.5; 16-24).)

**Claims 19** is the apparatus, claim corresponding to device claim 13 respectively, and rejected under the same rational set forth in connection with the rejection of claim 13 respectively, above.

**Claims 24-28** are the An article comprising: a storage medium having stored thereon instructions, that, when executed by a computing platform, claim corresponding to device claims 19-21 respectively, and rejected under the same rational set forth in connection with the rejection of claims 19-21 respectively, above.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject

matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 6 & 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Patil in view of Yach et al. (US 20020128036).

Regarding Claims 6, 8 Patil disclosed all the particulars of the claim except the user defined event includes specifying an acceptable transmission power level at which the message is to be sent. However, Yach teaches in an analogous art, that the method of claim 3, wherein specifying the user defined event includes specifying an acceptable transmission power level or distance at which the message is to be sent. (Pg.7; 0064) Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to include the user defined event includes specifying an acceptable transmission power level at which the message is to be sent in order provide transmission power control method in achieving the target.

Claims 7, 15-16, 22-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Patil in view of Price et al. (US 20020082881).

Regarding Claims 16, 23 Patil disclosed all the particulars of the claim except defining an acceptable quality of service level for when the message is to be transmitted. However, Price teaches in an analogous art, that the method of claims 13, 20 respectively, wherein defining a transmission condition includes defining an acceptable quality of service level for when the message is to be transmitted. (Pgs.3-4; 0052) Therefore, it would have been obvious to one of



Art Unit: 2617

ordinary skill in the art at the time of invention to include the user defined event includes specifying an acceptable quality of service level at which the message is to be sent in order to provide information exchange with communication network based on user needs and network capacity.

Regarding Claims 7, 15, 22 Patil disclosed all the particulars of the claim except the user defined event includes specifying an acceptable security level at which the message is to be sent. However, Price teaches in an analogous art, that the method of claims 3, 13, 20 wherein specifying the user defined event includes specifying an acceptable security level at which the message is to be sent. (Pg.7; 0095)

Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Patil in view of Adams (US 6400814).

Regarding Claim 10, Patil disclosed all the particulars of the claim except transmitting the message includes wirelessly transmitting the message to a receiver and disabling a ringing function of the receiver. However, Adams teaches in an analogous art, that The method of claim 1, wherein transmitting the message includes wirelessly transmitting the message to a receiver and disabling a ringing function of the receiver. (col.4; 42-54) Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to include transmitting the message includes wirelessly transmitting the message to a receiver and disabling a ringing function of the receiver in order to determine operational status thereof.

***Response to Amendments & Remarks***

V. Applicant's arguments with respect to claims 1-28 has been fully considered but is moot in view of the new ground(s) of rejection.

***Conclusion***

VI. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sharad Rampuria whose telephone number is (571) 272-7870. The examiner can normally be reached on M-F. (8:30-5 EST).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, George Eng can be reached on (571) 272-7495. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://portal.uspto.gov/external/portal/pair>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free) or [EBC@uspto.gov](mailto:EBC@uspto.gov).



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Art Unit 2617